

Message Text

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ACTION EUR-12

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USMISSION USBERLIN
CINC USAREUR HEIDELBERG

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FOR ASSISTANT SECRETARY VEST FROM THE AMBASSADOR

E.O. 11652: EXEMPT

TAGS: AFSP, AINF, GW, WB, AKB

SUBJECT: STATUS OF U.S. CITIZENS AND RESIDENT ALIENS

EMPLOYED IN LOCAL NATIONAL POSITIONS ADMINI-
STERED BY US FORCES IN BERLIN

REFS: (A) USBER 207
(B) USBER 214

1. I WOULD LIKE TO URGE APPROPRIATELY HIGH-LEVEL
EXAMINATION WITHIN THE DEPARTMENT OF A TAXATION PROBLEM
AFFECTING OUR INTERESTS IN BERLIN, IN PREPARATION FOR

INTER-AGENCY CONSULTATIONS WHICH I UNDERSTAND ARE TO
TAKE PLACE IN WASHINGTON ON JANUARY 31. THE INTERNAL
REVENUE SERVICE IS DEVELOPING THE POSITION THAT CERTAIN
AMERICANS IN BERLIN WHO ARE PAID OUT OF OCCUPATION
FUNDS AND WHO HERETOFORE HAVE ENJOYED A SUBSTANTIAL
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EXEMPTION FROM US TAXES SHOULD BE CONSIDERED "EMPLOYEES
OF THE US GOVERNMENT" AND THUS WOULD NOT BE ENTITLED
TO THIS EXEMPTION. THIS POSITION, IF FINALLY ADOPTED,
WOULD INCREASE US GOVERNMENT REVENUES BY ADDING
TO THE OCCUPATION COSTS BORNE BY THE GERMAN GOVERNMENT.

2. US MISSION BERLIN HAS PROVIDED AN EXTREMELY HELPFUL

STRUCTURING AND EXPOSE OF THE SPECIAL PROBLEMS INVOLVED
IN THE RULING THAT IRS IS PROPOSING. BERLIN'S MESSAGES
(REFTELS A AND B) ALSO EFFECTIVELY ITEMIZE THE POSSIBLE
ADMINISTRATIVE CONSEQUENCES AND SUGGEST THEIR PROBABLE
POLITICAL IMPACT.

3. AS BERLIN HAS POINTED OUT, A CHANGE OF THE SORT
PROPOSED BY IRS WOULD REQUIRE CONSULTATIONS WITH THE
FRG. IT SEEMS LIKELY THAT THE ARGUMENTATION PRODUCED
BY USBER AGAINST A FINDING THAT THE PERSONS IN QUESTION
ARE "USG EMPLOYEES" WOULD BE THE VERY KIND OF ARGUMEN-
TATION WE COULD EXPECT FROM THE FRG, WHICH WOULD
PRESUMABLY THEREBY OPPOSE BEARING THE FINANCIAL
CONSEQUENCES OF WHAT THEY WOULD LIKELY SEE AS A SELF-
SERVING INTERNAL USG RULING.

4. I thus urge careful and full consideration of this
complex matter as described by USBER with a view to
determining whether the numerous problems do not
outweigh the net benefit that the IRS position might
produce for the USG.

5. Should the IRS position finally prevail nonetheless,
it is important that we bear in mind that the foreseeable
negative FRG political reaction would be substan-
tially aggravated if that position were also made
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RETROACTIVE AND COUPLED WITH AN ATTEMPT BY THE USG
TO PLACE THE FINANCIAL BURDEN OF SUCH RETROACTIVITY
UPON THE FRG. MOREOVER, AS ALL PARTIES HAVE ACTED IN
GOOD FAITH, IT WOULD SEEM HIGHLY INEQUITABLE TO THE
INDIVIDUALS AFFECTED IF THE IRS POSITION BECAME APPLI-
CABLE BEFORE NEW WAGE CONDITIONS HAVE BEEN AGREED THAT
TAKE INTO ACCOUNT THE FACT THAT FOR SOME THE PRESENT
WAIVES ARE BASED ON THE ASSUMPTION THAT THEIR INCOME
QUALIFIES FOR THE SUBSTANTIAL EXEMPTION FROM U.S.
TAXES.
STOESSEL

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NNN

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